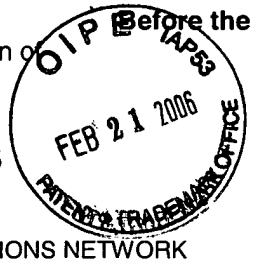
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences



In re Patent Application of: Atty Dkt. 36-1338
C# M#

BEDDUS et al TC/A.U.: 2666

Serial No. 09/530,785 Examiner: Mehra, I.

Filed: May 5, 2000 Date: February 21, 2006

Title: COMMUNICATIONS NETWORK

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

☐ **Correspondence Address Indication Form Attached.**

☐ **NOTICE OF APPEAL**
Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the Examiner twice/finally rejecting applicant's claim(s). $500.00 (1401)/$250.00 (2401) $

☒ An appeal **BRIEF** is attached in the pending appeal of the above-identified application $500.00 (1402)/$250.00 (2402) $ 500.00

☐ Credit for fees paid in prior appeal without decision on merits -$ ( )

☐ A reply brief is attached. **(no fee)**

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s)
One Month Extension $120.00 (1251)/$60.00 (2251)
Two Month Extensions $450.00 (1252)/$225.00 (2252)
Three Month Extensions $1020.00 (1253/$510.00 (2253)
Four Month Extensions $1590.00 (1254/$795.00 (2254) $ 120.00

☐ "Small entity" statement attached.

Less month extension previously paid on -$( )

TOTAL FEE ENCLOSED $ 620.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140.** A duplicate copy of this sheet is attached.

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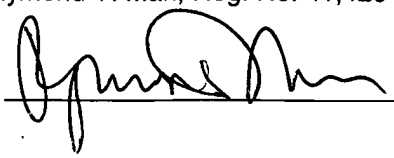
Signature: 

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	Confirmation No.: 3443
BEDDUS et al.	Atty. Ref.: 36-1338
Serial No. 09/530,785	Group: 2666
Filed: May 5, 2000	Examiner: Mehra, I.

For: COMMUNICATIONS NETWORK

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February 21, 2006

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the Examiner.

TABLE OF CONTENTS

(I) REAL PARTY IN INTEREST

The real party in interest is British Telecommunications public limited company, a corporation of the country of England.

(II) RELATED APPEALS AND INTERFERENCES

The appellant, the undersigned, and the assignee are not aware of any related appeals, interferences, or judicial proceedings (past or present), which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

(III) STATUS OF CLAIMS

Claims 2-8, 10 and 17-21 are pending and have been rejected. No claims have been substantively allowed.

(IV) STATUS OF AMENDMENTS

An Amendment/Response dated August 22, 2005 was filed after the issuance of the Final Rejection. The August 22, 2005 Amendment/Response canceled claim 9. While not explicitly indicated by the Advisory Action, Appellant assumes that the cancellation of claim 9 has been entered (or will be entered).

(V) SUMMARY OF CLAIMED SUBJECT MATTER

The invention of the claims relates to a communications system/method in which terminals exchange call control capability data. A listing of each independent claim, each dependent claim argued separately and each claim having means plus function language is provided below including exemplary reference(s) to page and line number(s) of the specification.

2. A method of operating a communications system comprising:

(a) exchanging between communication terminals call control capability data, which call control capability data identifies for each respective terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) setting up a call between the communications terminals using a call control protocol and network address selected from the plurality of different call control protocols and network addresses identified in the call control capability data [pg. 7, ll. 16-25];

wherein the exchanging of the call control capability data is carried out prior to initiating call set-up [pg. 7, ll. 16-25].

3. The method according to claim 2,

wherein a first one of the communications terminals initiates the exchange of call control capability data by transmitting the call control capability data for

the first one of the communications terminals to a second one of the communications terminals and the second one of the communications terminals returns an acknowledgement to the transmitted call control capability data, which acknowledgement includes call control capability data for the second one of the communications terminals [pg. 4, ll. 11-24].

4. The method according to 2, further including monitoring continuously at a communications terminal a communications port and carrying out the exchange of call control capability data whenever a request is received at the communications port [pg. 2, ll. 28-31; pg. 6, l. 13 to pg. 7, l. 15].

5. The method according to claim 4, wherein the monitoring of the communications port continues after a call has been set up [pg. 2, ll. 28-31; pg. 6, l. 13 to pg. 7, l. 15].

6. The method according to claim 2, further including communicating as part of the call control capability data a pointer to a source of further data identifying capabilities not provided for directly in the call control protocols [pg. 6, ll. 1-12].

7. The method according to claim 6, wherein the pointer is a uniform resource locator (URL) [pg. 6, ll. 1-12].

8. A communications terminal comprising:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal, the setting up of the call by the means for setting up being initiated after the exchange of call control capability data is performed by the means for exchanging call control capability data [pg. 7, ll. 16-25].

10. A communications network comprising a plurality of communication terminals [pg. 3, ll. 30-35], in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for

a respective terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal, the setting up of the call by the means for setting up being initiated after the exchange of call control capability data is performed by the means for exchanging call control capability data [pg. 7, ll. 16-25].

17. A communications terminal comprising:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal [pg. 7, ll. 16-25];

wherein the means for exchanging exchanges the call control capability data prior to when the means for setting initiates setting up the call between the communications terminal and the other communications terminal [pg. 7, ll. 16-25].

18. A communications network comprising a plurality of communication terminals [pg. 3, ll. 30-35], in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal [pg. 7, ll. 16-25];

wherein the means for exchanging exchanges the call control capability data prior to when the means for setting initiates setting up the call between the communications terminal and the other communications terminal [pg. 7, ll. 16-25].

19. A method of operating a communications system comprising:

(a) receiving at a first communications terminal call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) setting up a call between the first and the at least another communications terminal using a call control protocol and network address selected from the plurality of different call control protocols and different network addresses identified in the call control capability data [pg. 7, ll. 16-25];

wherein the receiving of call control capability data is performed prior to initiating call set-up [pg. 7, ll. 16-25].

20. A communications terminal comprising:

(a) means for receiving call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the at least another communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols

and different network addresses identified in the call control capability data received from the at least another communications terminal, the setting up of the call by the means for setting up being initiated after the call control capability data is received by the means for receiving [pg. 7, ll. 16-25].

21. A communications network comprising a plurality of communication terminals [pg. 3, ll. 30-35], in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for receiving call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses [pg. 3, l. 30 to pg. 4, l. 29]; and

(b) means for setting up a call between the communications terminal and the at least another communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the at least another communications terminal, the setting up of the call by the means for setting up being initiated after the call control capability data is received by the means for receiving [pg. 7, ll. 16-25].

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 2-3, 8-10 and 17-21 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over the four-way combination of Mikelaitis (XP-002075878 "A tutorial on ISDN customer call control") in view of Christensen et al (U.S. Patent No. 5,561,666, hereinafter "Christensen") and further in view of Mori (EP 0606079) and Yuasa et al (U.S. Patent No. 6,085,238, hereinafter "Yuasa").

Claims 4 and 5 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over the five-way combination of Mikelaitis, Christensen, Mori and Yuasa, as applied to claim 2 above, and further in view of Katsube (U.S. Patent No. 4,984,264).

Claims 6 and 7 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over the four-way combination of "Mikelaitis and Christensen, and Mori as applied to claim 2 above, and further in view of Markgraf et al (US Patent no. 6,181,691)."

(VII) ARGUMENT

Claims 2-3, 8-10 and 17-21 are not made "obvious" under 35 U.S.C. §103 over the four-way combination of Mikelaitis in view of Christensen and further in view of Mori and Yuasa.[1]

In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art and there must be some suggestion or motivation either in the references themselves or the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. The four-way combination of Mikelaitis, Christensen, Mori and Yuasa fails to teach or suggest all of the claim limitations. For example, the combination fails to teach or suggest communications terminals exchanging data identifying for each respective communications terminal a plurality different call control protocols and network addresses, and thereafter setting up a call using a selected one of the plurality of different call control protocols and one of the different network addresses, as required by independent claim 2. Independent claims 8, 10, 17 and 18 require similar features. The

[1] Appellant notes that the International Preliminary Examination Report (IPER) states the following:

> "2.4) The combination of the features of dependent claim 2 is neither known from, nor rendered obvious by, the available prior art.
>
> The step of exchanging call control capability data is carried out prior to initiating call set-up.
>
> The advantage of exchanging this data at that time is that it is not necessarily to start or proceed with the setup of the call if a terminal has not the capability. The process of exchanging call control capability data is now independent of the call setup and improves therefore the flexibility of the method."

Appellant further notes that section 2.1 of the IPER discusses the Mikelaitis reference (reference "D1") in detail.

combination also fails to teach or suggest a communications terminal receiving from another communications terminal data identifying a plurality of different call control protocols and different network addresses, and setting up a call between the communications terminals using a selected one of the plurality of different call control protocols and different network addresses, wherein the receipt of the data is performed prior to initiating the call setup as required by independent claims 19-21.

At least claims 2, 8, 10, 17 and 18 thus relate to a first communications terminal, which is identified with a plurality of different call control protocols and different network addresses, exchanging data with a second communications terminal which is identified with a plurality of different call control protocols and different network addresses. As a result of this exchange of data between the first and second communications terminals, the most appropriate connection option (i.e., one call control protocol and network address) is selected from the various possible connection options (the plurality of different possible call control protocols and different network addresses). A call connection between the first and second communications terminals is thereafter set up using the selected one of the plurality of different call control protocols and different network addresses. Prior to the call being setup between the two terminals, the two terminals first exchange data with one another in order to select an optimum call control protocol and corresponding network address from a plurality of different options. A single

communications terminal is therefore able to take advantage of multiple different networks and different addresses. For example (but without limitation), Fig. 1 of the present application discloses user terminals 2-3 each having a user address and an ATM address. The user terminals 2-3 are connected in a network which supports both IP (Internet protocol) and ATM protocols. Each of the user terminals 2-3 is thus capable of providing operation in a multi-functional way. Other address types and call control protocols which may be exchanged prior to initiating call set-up are described in the specification. For example, page 4, lines 26-29 of the specification teaches "Examples of different address types which might be supported include e-mail, URL (uniform resource locator), IP multicase, IP unicast, E.164, AESA. Examples of different call control types include H.225.0, SDP, B-ISDN Q.2971, B-ISDN ATM-F UNI, N-ISDN Q.931, PSTN BTNR 315."

Section 4 (page 4) and Section 7(b) (page 9) of the final Office Action and the second paragraph of the continuation page of the Advisory Action apparently allege that paragraphs 5.4 and 5.5 of Mikelaitis disclose exchanging call control capability data prior to initiating call set-up. Appellant respectfully disagrees with these allegations. For example, Fig. 5.8 of Mikelaitis described in paragraph 5.5 discloses messages which can be transmitted between terminals **after** a call has been set-up. Indeed, paragraph 5.5 of Mikelaitis discloses an information phase of a ISDN call occurring **after** establishing (i.e., setting up) an ISDN call described

in paragraph 5.4. The first sentence of paragraph 5.5 states "Once the D-channel signalling dialogue results in a network wide (i.e., between calling and called interfaces) connection for user traffic the customer has two 'parallel' communications channels, the first is the network connection (or connections) that supports the Bearer Service requested by the customer and the second is the network signalling association (emphasis added)." There is thus no communication of information between the destination terminal to the originating terminal (or *vice versa*) in Mikelaitis until after the call has been established.

Section 5.4 of Mikelaitis discloses a procedure for establishing (i.e., setting up) an ISDN call. The procedure first involves communications only between an originating terminal (TE_A) and a network. In particular, the originating terminal initiates an exchange with the network via a SETUP message and negotiates with the network through a series of information messages unless all of the necessary information is provided in the SETUP message itself. Secondly, the call establishing procedure then involves separate communications only between the network and the destination terminal (e.g., TE_C). In particular, the network contacts the destination terminal and informs it of the proposed type of connection. The destination terminal then checks to see if it is currently compatible with that type of connection or if it can reconfigure itself in some way to become compatible. If the destination is not currently compatible or can not reconfigure itself to be compatible, the destination terminal ignores the call (see

section 5.4.2 of Mikelaitis). Accordingly, Mikelaitis fails to teach or suggest exchanging call control capability between two terminals prior to initiating call set-up. For example, there is no discussion in Mikelaitis of exchanging call control capability data prior to establishing (i.e., setting up) the ISDN call as described in paragraph 5.4.

Moreover, Mikelaitis further fails to teach or suggest exchanging call control capability data which identifies for each respective terminal a plurality of different call control protocols and different network addresses prior to initiating call set-up using a selected call control protocol and network address from the plurality of different call control protocols and network addresses identified in the call control capability data. Mikelaitis describes the operation of a single network, an ISDN network. In this network, to set-up a call, a terminal must know the telephone number of the terminal which it wishes to contact. This originating terminal then sends a signaling message to the network and informs it of the telephone number of the destination terminal it wishes to call as well as any other subsidiary information such as sophisticated bearer capabilities. Once the network has sufficient information to set-up the call, it will then attempt to do so using the supplied destination telephone number. There is no exchange of plural call control protocols and/or plural network addresses for a respective (e.g., destination) terminal prior to initiating call set-up.

Since Mikelaitis describes such ISDN call set-up procedures, one of ordinary skill in the art would not have motivated to modify the Mikelaitis system to include a step of exchanging call control capability data comprising a plurality of different call control protocols and network addresses -- one would always use the destination terminals telephone number to set up a connection. Mikelaitis thus teaches away from the claimed invention and any motivation to combine reference teachings to arrive at the invention.

Section 5.5 of Mikelaitis specifies that once the D-channel signaling dialogue results in a network wide connection for user traffic (i.e., once the call has been set up) the customer has two "parallel" communications channels (the main call channel (a 64kbs "B" channel) and the D-channel). This has absolutely no connection with negotiation or exchanging call control capability between the terminals before setting up a connection.

Section 5.4.2 of Mikelaitis discloses "Compatibility Checking." While this section describes how a called terminal may be sent information by the calling terminal specifying various call requirements specified by the calling terminal, the called terminal does not supply any call capability data to the calling party. There is no form of negotiation. Moreover, there are no options. That is, only a single call control protocol is specified.

It appears that the Office Action alleges that Mikelaitis discloses each and every limitation of the claimed invention. As far as Appellant can ascertain, the

Office Action does not indicate any limitation that is lacking in Mikelaitis. It is therefore unclear why the Examiner has resorted to combining the teachings of Mikelaitis with three additional references. Appellant respectfully requests clarification.

None of the secondary, tertiary and/or fourth references resolves the above deficiencies of Mikelaitis. For example, contrary to the final Office Action's arguments in Section 7(b) of the final Office Action and the Advisory Action, Christensen is merely concerned with how to enable a PC to discover if a network to which it is attached can support a full duplex mode of communication or only a half-duplex mode of communication. Christensen is not at all concerned with how to set up a communication with another terminal. Indeed, Christensen does not discuss any interaction between terminals, but only interactions between a terminal and a network to which it is connected.

Col. 2, lines 17-22 of Christensen (specifically identified by the non-final Office Action and the Advisory Action) states the following:

> "In particular, a station wishing to enter the network generates and transmits to the port of the concentrator (switch) to which the station is connected, a Media Access Control (MAC) frame called 'Registration Request.' This is a new management frame with new sub-vector fields indicating the requested protocol (full-duplex or half-duplex)."

It is clear upon any review of the above-portion of Christensen that this portion of Christensen does not disclose exchanging call control capability data

prior to initiating call set-up, let alone the call capability data identifying a plurality of different call control protocols and different network addresses.

Mori discloses how to enable multiple LANs to be connected together using an ATM network (or similar network) such that the use of the ATM protocol is transparent to the terminals. This is essentially accomplished by having the network perform address and header translation at the ingress and egress to the ATM network. When one terminal wishes to contact another terminal, it specifies a single network address and a single protocol type of the destination terminal. For example, col. 1, line 56 *et seq.* (specifically identified by the final Office Action and the Advisory Action) states "Each LAN user terminal transmits a signalling packet when establishing a connection for transporting information-bearing packets, containing in it a source network address including a protocol identifier and a source user address and a destination network address containing the protocol identifier and a destination user address." Mori therefore in no way relates to selecting an optimum call control protocol and network address from a plurality of different possible options to connect to a particular given communications terminal. Mori thus fails to remedy the deficiencies of Mikelaitis because it assumes that a destination terminal to be contacted will have a single known address (e.g., a MAC address) which will be used by the source terminal to communicate with it. There is thus no exchange of call control capability data which identifies for each respective terminal a plurality of different call control

protocols and different network addresses. Again, as described in page 1, line 56 *et seq.*, Mori discloses a signaling packet containing a single call control protocol and network address (source network address) for the source user terminal and a single call control protocol and network address (destination network address) for the destination terminal.

Col. 1, lines 15-20 of Mori (also specifically identified by the final Office Action and the Advisory Action) states the following:

> "In local area networks (LAN), user terminals are identified by a network layer protocol such as Internet Protocol. If one or more private LAN's is to be supported by an ATM network, address resolution is necessary to convert the network address of a destination user to a port address before establishing a connection."

This portion of Mori describes the background of Mori's invention. This portion of Mori describes converting a network address of a destination user terminal to a port address so that the network can be supported by an ATM network. This address resolution is accomplished "before establishing a connection." This portion of Mori fails to teach or suggest exchanging different call control protocols and network addresses between the communication terminals, and thereafter setting up a call using a selected one of the call control protocols and one of the different network addresses prior to initiating call set-up. While Mori discloses address resolution "before establishing a connection", there is no teaching or suggestion of whether or not this address resolution is carried out

prior to initiating call set-up. Moreover, the address resolution involves broadcasting an address conversion request from the source user terminal to the destination user terminal, but does not involve transmission of different call control protocols and different network addresses to enable one of the possible call control protocols and one of the possible network addresses to be selected.

Yuasa relates to providing "virtual" LANs so that PCs connected to different physical LANs can behave as though they were connected to a single LAN even though they are not. This is achieved by having the network perform address translation in a manner which is transparent to the PC terminals. Yuasa is in no way concerned in selecting one (i.e., an optimum) address and one call control protocol from a plurality of different possible addresses and call control protocols to connect to a particular given terminal. Yuasa thus fails to remedy the deficiencies of Mikelaitis (and/or Mori or Christensen) because a terminal wishing to send data to another terminal does so using a single destination address and call control protocol. The fact that this may be carried within packets of lower level protocols for transporting the data across multiple hops over the network (which protocols may add further address and protocol information for different sections of the journey over the network) would in no way lead one of ordinary skill in the art to modify the set up of Mikelaitis (and/or Mori or Christensen) to arrive at the present invention. These addresses for use by different levels of protocol in

traversing the network are not optional, but are compulsory in order to traverse the network successfully.

Col. 21, lines 59-65 of Yuasa (specifically identified by the final Office Action and the Advisory Action) states the following:

> "To be noted here, only one VLAN group (second layer level) can be defined for each MAC address of a network interface card (NIC) of each terminal, but a plurality of virtual network groups (third layer level) different in communication protocol can be defined and a plurality of virtual custom groups can be defined at the application level. FIG. 4 shows communication with the terminals A1 . . . , B1 . . . , and C1 as one virtual group for simplicity."

Col. 22, lines 44-50 of Yuasa (also specifically identified by the final Office Action and the Advisory Action) states the following:

> "At the third layer level of OSI protocol layer model with a plurality of network addresses depending on communication protocol defined as client addresses, in conformity with the conventional standard, an extra header or tag is not added to a packet and VLAN group is supported for terminals in conformity with the conventional standard."

Neither of these two identified portions of Yuasa relates to a terminal sending to another terminal a plurality of different call control protocols and different network addresses so that a particular one of the different call control protocols and different network addresses may be selected. It is clear from the teachings of Yuasa that for a terminal to send data to another terminal in the network, it specifies in respect of a single connection, only a single protocol and network address which may then be translated in the network.

The final Office Action's (page 6) allegation that "The suggestion to do so [i.e., to modify Mikelaitis to arrive at the present invention] would have been to match the traffic types and quality of service requirements" is unfounded since Mikelaitis is able to match traffic types and QOS requirements of the call without exchanging or receiving different call control protocols and network addresses prior to initiating setting up the ultimate call and selecting one of the different call control protocols and one of the different network addresses because the ISDN is a sophisticated network which allows different types of calls within different QOS requirements to be made already. In this regard, Mikelaitis teaches away from the combination proposed by the Office Action.

Accordingly, Appellant submits that claims 2-3, 8-10 and 17-21 are not made "obvious" over Mikelaitis in view of Christensen and further in view of Mori and Yuasa, and thus respectfully requests that the rejection of these claims under 35 U.S.C. §103 be reversed.

Claims 4 and 5 are not made "obvious" under 35 U.S.C. § 103 over Mikelaitis, Christensen, Mori and Yuasa, as applied to claim 2 above, and further in view of Katsube. Claims 6 and 7 are not made "obvious" under 35 U.S.C. § 103 as allegedly being unpatentable over Mikelaitis, Christensen and Mori as applied to claim 2 above, and further in view of Markgraf.

The rejection of claims 6 and 7 is not completely understood by Appellant since the rejection applied to claim 2 is over the four-way combination of

Mikelaitis, Christensen, Mori and Yuasa, not just the three-way combination of Mikelaitis, Christensen and Mori. Nevertheless, since claims 4-5 and 6-7 depend at least indirectly from independent claim 2, Appellant submits that the comments made above with respect to claim 2 apply equally to these claims. Neither Katsube nor Markgraf resolves the above deficiencies of the four-way combination of Mikelaitis, Christensen, Mori and Yuasa. For example, neither Katsube nor Markgraf teaches or suggests exchanging a plurality of different call control protocols and different network addresses between two terminals, and thereafter setting up a call using a protocol and address selected from the plurality of different protocols and addresses, wherein exchanging the data is carried out prior to initiating call set-up.

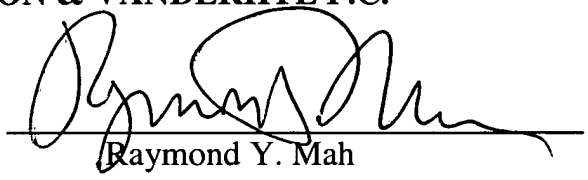
Appellant therefore respectfully requests that the rejection of claims 4-5 and 6-7 under 35 U.S.C. § 103 be reversed.

CONCLUSION

In conclusion it is believed that the application is in clear condition for allowance; therefore, early reversal of the Final Rejection and passage of the subject application to issue are earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

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(VIII) CLAIMS APPENDIX

1. (canceled)

2. A method of operating a communications system comprising:

(a) exchanging between communication terminals call control capability data, which call control capability data identifies for each respective terminal a plurality of different call control protocols and different network addresses; and

(b) setting up a call between the communications terminals using a call control protocol and network address selected from the plurality of different call control protocols and network addresses identified in the call control capability data;

wherein the exchanging of the call control capability data is carried out prior to initiating call set-up.

3. The method according to claim 2,

wherein a first one of the communications terminals initiates the exchange of call control capability data by transmitting the call control capability data for the first one of the communications terminals to a second one of the communications terminals and the second one of the communications terminals returns an acknowledgement to the transmitted call control capability data, which

acknowledgement includes call control capability data for the second one of the communications terminals.

4. The method according to 2, further including monitoring continuously at a communications terminal a communications port and carrying out the exchange of call control capability data whenever a request is received at the communications port.

5. The method according to claim 4, wherein the monitoring of the communications port continues after a call has been set up.

6. The method according to claim 2, further including communicating as part of the call control capability data a pointer to a source of further data identifying capabilities not provided for directly in the call control protocols.

7. The method according to claim 6, wherein the pointer is a uniform resource locator (URL).

8. A communications terminal comprising:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for

a respective terminal plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal, the setting up of the call by the means for setting up being initiated after the exchange of call control capability data is performed by the means for exchanging call control capability data.

9. (canceled)

10. A communications network comprising a plurality of communication terminals, in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal a plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal, the setting up of the call by the means for setting up being initiated after the exchange of call control capability data is performed by the means for exchanging call control capability data.

11-16. (canceled)

17. A communications terminal comprising:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal a plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal;

wherein the means for exchanging exchanges the call control capability data prior to when the means for setting initiates setting up the call between the communications terminal and the other communications terminal.

18. A communications network comprising a plurality of communication terminals, in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for exchanging call control capability data with at least another communications terminal, which call control capability data identifies for a respective terminal a plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the other communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the other communications terminal;

wherein the means for exchanging exchanges the call control capability data prior to when the means for setting initiates setting up the call between the communications terminal and the other communications terminal.

19. A method of operating a communications system comprising:

(a) receiving at a first communications terminal call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses; and

(b) setting up a call between the first and the at least another communications terminal using a call control protocol and network address selected from the plurality of different call control protocols and different network addresses identified in the call control capability data;

wherein the receiving of call control capability data is performed prior to initiating call set-up.

20. A communications terminal comprising:

(a) means for receiving call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the at least another communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data

received from the at least another communications terminal, the setting up of the call by the means for setting up being initiated after the call control capability data is received by the means for receiving.

21. A communications network comprising a plurality of communication terminals, in which different ones of the plurality of communications terminals support different respective call control protocols, and in which each of the communications terminals includes:

(a) means for receiving call control capability data from at least another communications terminal, which call control capability data identifies for the at least another communications terminal a plurality of different call control protocols and different network addresses; and

(b) means for setting up a call between the communications terminal and the at least another communications terminal using a call control protocol and network address type selected from the plurality of different call control protocols and different network addresses identified in the call control capability data received from the at least another communications terminal, the setting up of the call by the means for setting up being initiated after the call control capability data is received by the means for receiving.

(IX) EVIDENCE APPENDIX

None

(X) RELATED PROCEEDINGS APPENDIX

None